



HOWARD COUNTY DEPARTMENT OF PLANNING AND ZONING
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September 5, 2014

TECHNICAL STAFF REPORT

*Petition Accepted on June 25, 2014
Hearing Examiner Hearing of September 11, 2014*

Case No./Petitioner:

BA-14-010C&V Scott Shearer

Request:

Conditional Use to use existing buildings as a museum for historic firefighting apparatus and farm equipment (Section 131.0.N.36). A request for a variance from the bulk requirement given in Section 105.E.4.a.(3)(c)(1) of the Zoning Regulations to reduce the required setback from the side property line from 30 to 17.5 feet from the southwestern property line and 28.5 feet from the western property line for an existing building, and a request for a variance from the bulk requirement given in Section 105.E.4.a.(3)(c)(1) of the Zoning Regulations to reduce the required setback from the side property line from 30 to 23.5 feet from the northern property line for an existing pole barn, and from the bulk requirement given in Section 128.0.A.4 of the Zoning Regulations requiring animal shelters measuring larger than 500 square feet in size be located a minimum of 200 feet from any existing dwelling on a different lot. The Petitioner is asking to reduce the required minimum 200 foot setback from any existing dwelling on a different lot to 70 feet.

Location:

Fifth Election District

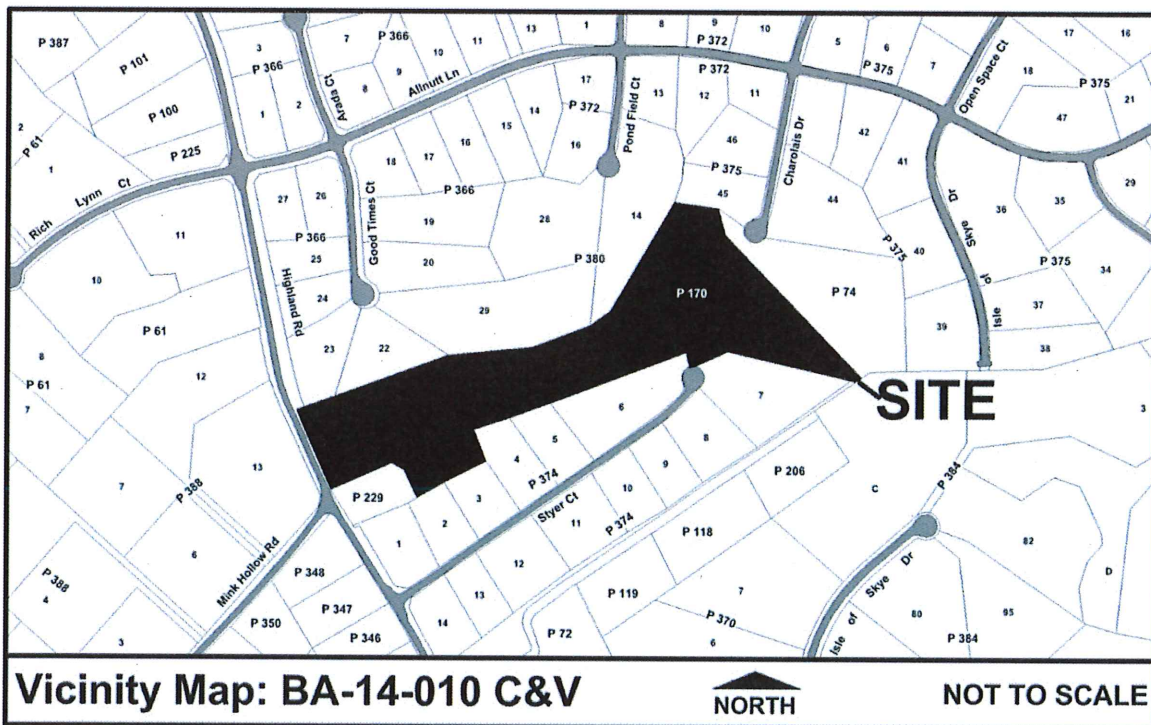
Just northeast of the intersection of Highland Road and Mink Hollow Road
Tax Map 34, Grid 15, Parcel 170; 13288 Highland Road (the "Property")

Area of Site:

14.143 acres indicated in the Petitioner's application

Zoning:

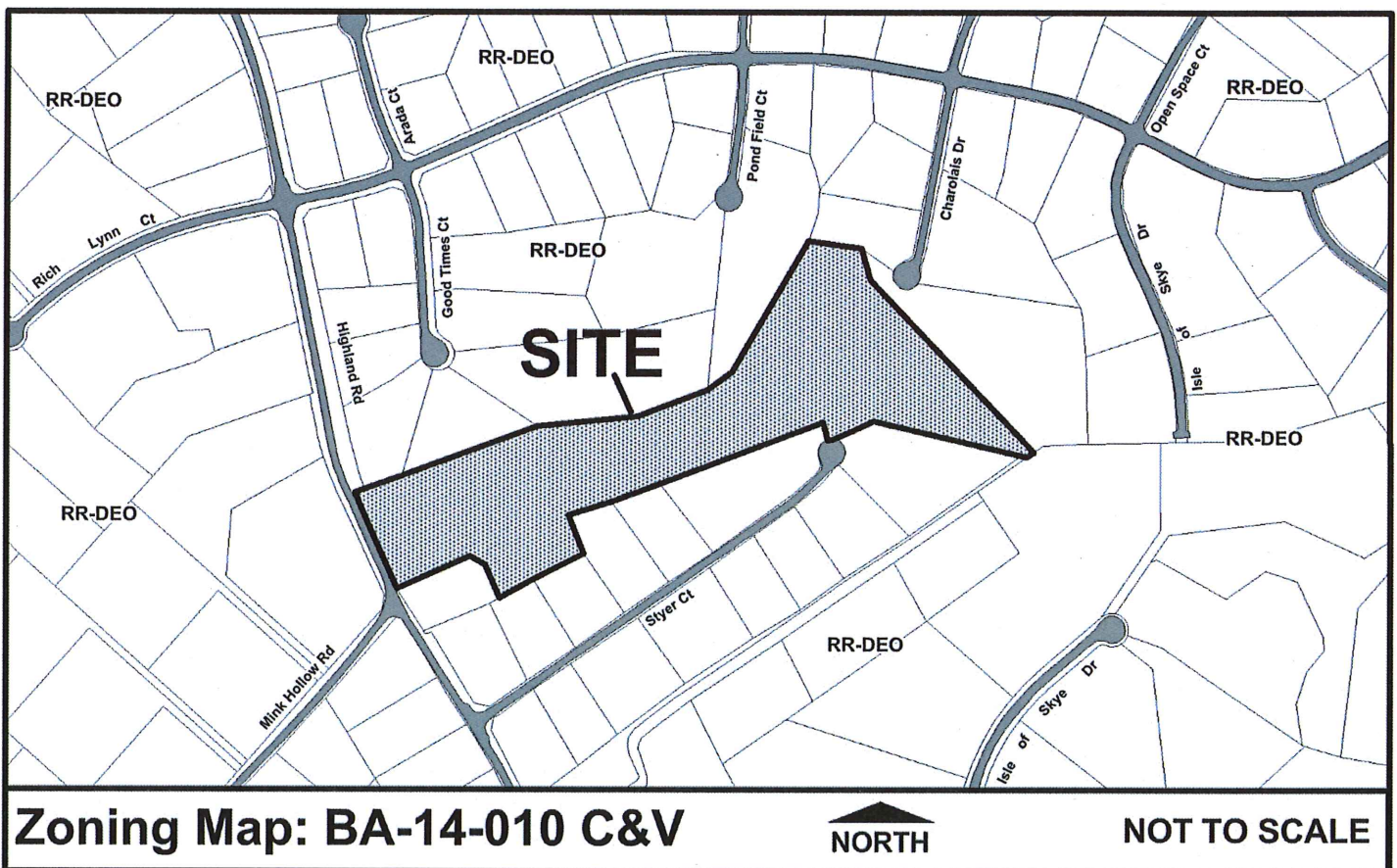
RR-DEO (Rural Residential: Density Exchange Option)



I. CONDITIONAL USE PROPOSAL

This petition seeks conditional use approval to use two existing single-story block and frame buildings (the "Buildings") as a museum (the "Museum"). The two existing single-story block and frame buildings will be used to store and maintain antique farming and firefighting equipment. The restored antique farming and firefighting equipment would be displayed on the Property for public viewing one day per year. On that single day per year, the antique farming and firefighting equipment would be displayed outside of the Buildings.

The proposed Museum will be primarily an indoor use except for the one day out of the year that the antique farming and firefighting equipment is displayed for public viewing. The proposed date and hours of operation for the single day of public viewing would be the first Saturday in October from 10 a.m. to 6 p.m. The Petitioner and his family will operate the Museum, and he will not have any additional employees. The Petitioner is proposing twelve striped parking spaces, including two handicapped parking spaces. The Petitioner anticipates that most of the museum patrons will access the museum during its single day of operation via a shuttle service that would originate at the Historic Crossroads in Highland, Maryland. The Petitioner is also proposing portable ADA compliant restrooms at the Property during the day that the antique farming and fire equipment is displayed for the public. Given that the Museum will primarily be an indoor use, and the antique farming and fire equipment will only be displayed for public viewing for a single day every year, the Petitioner does not believe that odors, dust, fumes, noise, vibrations, or additional street or sidewalk traffic will be an issue.



II. BACKGROUND INFORMATION

A. Site Description

The Property is a 14.143 acre parcel improved with a 3,457 square foot single family dwelling, a 1,650 square foot pole barn used to house animals, and 9,388 square foot and 4,115 square foot single story block and frame buildings used to store and maintain antique farm and firefighting equipment. The Property has approximately 320 feet of frontage on Highland Road. The topography of the site is relatively level, with a slight slope from west to east. Two paved driveways are located directly west of the existing buildings. The two driveways, approximately 100 feet apart and approximately 10 feet in width, provide ingress and egress for the site off of Highland Road.

B. Vicinal Properties

All adjoining properties are zoned RC-DEO. Adjoining the property to the north are Lots 29, 22, and 23, part of the "Section One, Allnutt Farms Estates" subdivision, currently improved with single family detached homes. Also adjoining the property to the north is Lot 14, part of the "Allnutt Farms Estates, Section Two" subdivision, currently improved with a single family detached home. Also adjoining the property to the north is Lot 45, part of the "Allnutt Farms Estates, Section Four" subdivision, currently improved with a single family detached home.

Adjoining the property to the east is Parcel 74, recorded in a deed found at liber 15252, folio 442 in the Land Records of Howard County, Maryland, currently improved with a single family detached home.

Adjoining the Property to the south are Lots 1 through 7, part of the "Section Three, Allnutt Farms Estates" subdivision, currently improved with single family detached homes. Also adjoining the property to the South is Parcel 229, recorded in a deed found at liber 5660, folio 65 in the Land Records of Howard County, Maryland, currently improved with a single family detached home.

To the west across Highland Road are single family detached homes that sit on properties zoned RR-DEO.

C. Roads

Highland Road has two travel lanes and approximately 25 feet of paving within a variable width right-of-way. The posted speed limit on Highland Road is 35 miles per hour.

Visibility from the existing driveway entrances onto Highland Road appears to be acceptable, with estimated sight distance of approximately 300 feet to the north and approximately 500 feet to the south. Precise sight distance measurements may only be determined through a detailed sight distance analysis, however.

According to data from the Department of Public Works, the traffic volume on Highland Road, just south of Mink Hollow Road was 4,306 ADT (average daily trips) as of January, 2009.

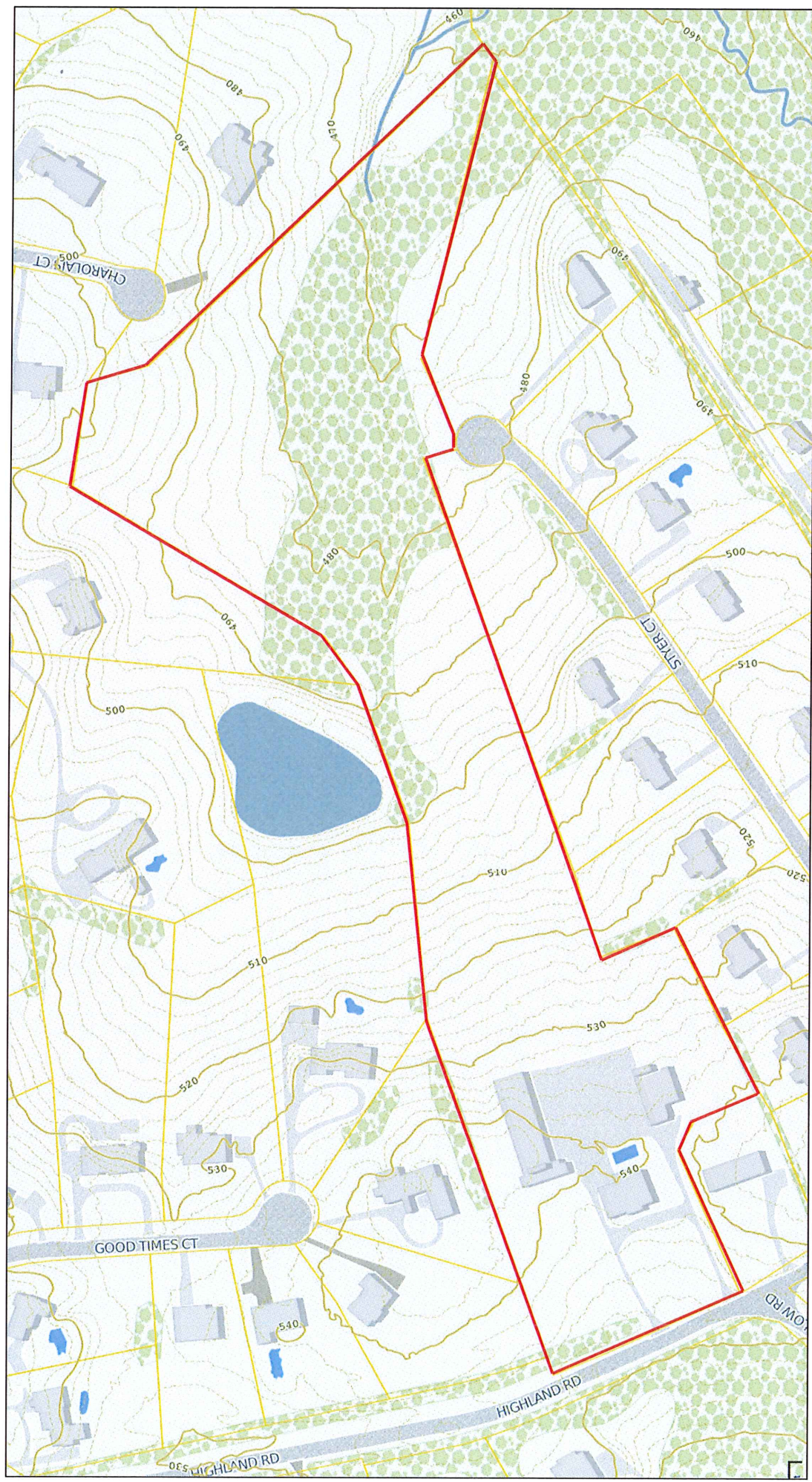
D. Water and Sewer Service

The property is outside the Metropolitan District, and is currently served by private well and septic facilities.

E. General Plan

The Property is designated Rural Residential Area on the Policies Map 2000-2020 of PlanHoward 2030.

Highland Road is depicted as a Major Collector Road on the Functional Road Classification Map of PlanHoward 2030.



Topography (Taken from Howard County Interactive Map)

F. Agency Comments

No other agencies had any comments regarding this proposal.

G. Adequate Public Facilities Ordinance

The petition is subject to the Adequate Public Facilities Ordinance if it is determined that a Site Development Plan is necessary for the facility. Such a Site Development Plan would be subject to the requirement to pass the test for adequate road facilities unless it is determined that the facility would not generate additional traffic.

III. ZONING HISTORY

Code Enforcement Case Number 13-101

Case assigned to: Tamara Frank

Open violations:

1. Commercial/construction equipment storage
2. Commercial vehicle storage
3. Detached accessory garage
4. Animal shelter setback violation

Status: Notice of violation given

IV. EVALUATION AND CONCLUSIONS

- A. Request for a variance from the bulk requirement given in Section 128.0.A.4 of the Zoning Regulations requiring animal shelters measuring larger than 500 square feet in size be located a minimum of 200 feet from any existing dwelling on a different lot, and a request for a variance from the bulk requirement given in Section 105.E.4.a.(3)(c)(1) of the Zoning Regulations to reduce the required setback from the side property line from 30 feet to 23.5 feet for an existing pole barn.

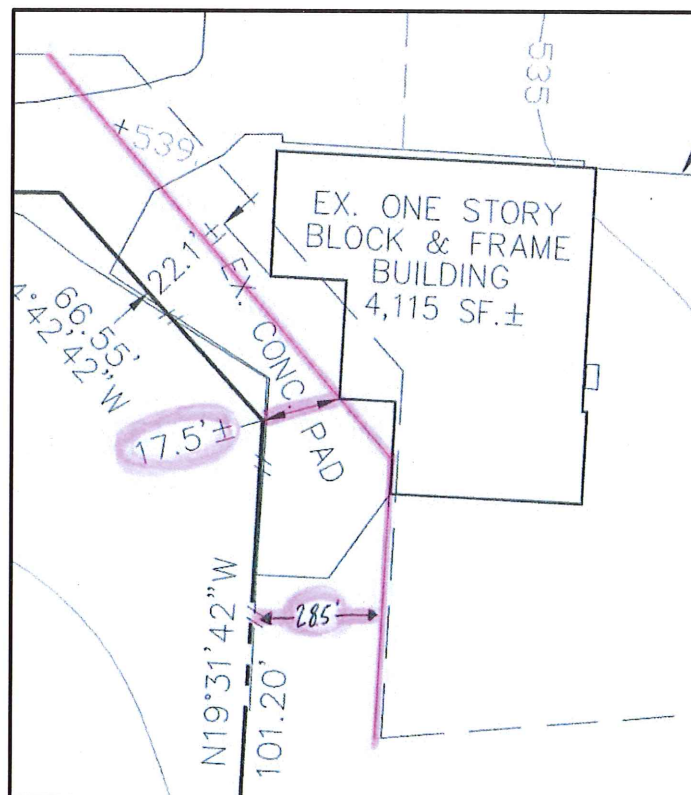
Evaluation of petition according to Section 130.0.B.2. of the Zoning Regulations

- a. The Petitioner claims that the Property identified as Tax Map 34, Grid 15, Parcel 170, is unique in the sense that the topography of the property drops off significantly toward the rear (eastern side) of the Property. It is clear that unique topographical features are evident on the Property. However, those features are far enough away from the developed area of the Property that they do not cause practical difficulties or unnecessary hardships in complying strictly with the bulk provisions of the Zoning Regulations. Using the Howard County Interactive Map, the slope was measured from the rear of the existing single family detached dwelling to the eastern edge of the paved area on the lot; an area where the pole barn could have been built in compliance with the Howard County Zoning Regulations. It was found that the average slope between the rear of existing single family dwelling and the eastern edge of the paved area on the lot was approximately 3%. Page 3 of the Petitioner's "Narrative in support of the variance application for the south setback" also indicates that "the property is fairly level in and around the vicinity of the existing farmhouse and accessory structures." The slope of the property does not increase drastically until about 180 feet past the edge of the paved area, where the grade steepens to an approximately 8% downward slope. There seems to be plenty of relatively level, yet slightly sloped land around the existing paved area on the Property where the barn could have easily been located at least 200 feet from residential homes on adjacent properties and still provide access for the Petitioner's wife, who has a disability that requires the use of a wheelchair. Another location that provides the required 200 feet from residential homes on adjacent properties and still offers easy access for people with physical disabilities that require the use of a wheelchair is directly to the northeast of the existing single family detached dwelling next to the existing driveway. That area barely has a slope and is in close proximity to the existing single family dwelling, eliminating the impact of any unique topographical features on the construction and use of the

pole barn. However, because the existing location of the barn appears to be the most level area on the property, providing the easiest access for an individual in a wheelchair, even minimally sloped topography at any other location on the property may be considered unique in this case.

- b. The Variance, if granted, would not visually alter the essential character of the neighborhood since the pole barn is buffered from view by existing landscaping on the adjacent lot (Lot 22 of the Allnutt Farms, Section 1 subdivision). The smell generated by the 6 horses, 6 cows, and 2 sheep housed in the pole barn may have the potential to alter the character of the neighborhood when located 70 feet from a residential home on an adjacent property. However, the smell has not generated any complaints from the neighbors, indicating that the essential character of the neighborhood is not being compromised in this case.
 - c. The practical difficulty or hardship of not being able to meet all setback requirements is directly attributable to the noncomplying nature of the existing pole barn coupled with the topography of the site. Prior to erecting the pole barn, the Petitioner was advised of the zoning and setback requirements by a Department of Planning and Zoning inspector and proceeded to build the pole barn within the setbacks. However, because the current location of the pole barn is the most level area of the property and provides the easiest access for the Petitioner's wife, the hardship in this instance may be primarily attributed to the topography of the site.
 - d. The requested variances are the minimum necessary for the Petitioner to make reasonable use of the Property without moving or removing the pole barn.
- B. Request for a variance from the bulk requirement given in Section 105.E.4.a.(3)(c)(1) of the Zoning Regulations to reduce the required setback from the side property line from 30 feet to 17.5 feet and 28.5 feet for an existing building.

It should be noted that the Petitioner's application requested a reduction to the required setback from the side property line from 30 feet to 17.5 feet for an existing building. However, based on the plan that was submitted, it appears that they intended to request a reduction of the required setback from the side property line from 30 feet to 17.5 feet from the southwestern property line and 28.5 feet from the western property line for an existing building (please see portion of the Petitioner's plan below).



Evaluation of petition according to Section 130.0.B.2. of the Zoning Regulations

- a. The Property identified as Tax Map 34, Grid 15, Parcel 170, is unique in the sense that the building in question on the property has existed since 1954, was a farm building when it was constructed, and it may be legally noncomplying.
- b. The Variance, if granted, would not visually alter the essential character of the neighborhood since the building is buffered from view by existing landscaping on the adjacent lot (Parcel 229), and privacy fencing on the Petitioner's property.
- c. The practical difficulty or hardship of not being able to meet all setback requirements is directly attributable to the noncomplying nature of the existing building that existed before the Petitioner owned the Property. Additionally, the building has existed since 1954 and was a farm building when it was constructed, so it may be legally noncomplying. Therefore, the hardship was not created by the current owner of the lot.
- d. The requested variances are the minimum necessary for the Petitioner to make reasonable use of the Property without moving or removing the building or a portion of the building.

C. Request for Conditional Use approval for use of existing buildings as a museum for historic firefighting apparatus and farm equipment (Section 131.0.N.36).

1. Evaluation of petition according to Section 131.0.N.36. of the Zoning Regulations

- a. A Conditional Use may be granted in the RC and RR Districts, on properties that are not ALPP purchased or dedicated easement properties.
- b. The property located on Tax Map 34, Grid 15, Parcel 170; with the address of 13288 Highland Road is not ALPP purchased or dedicated easement property.

2. Evaluation of petition according to Section 131.0.B. of the Zoning Regulations

- a. The request to use the existing buildings for a museum use will be in harmony with the land uses and policies indicated in the Howard County General Plan for the district in which it is located. Based on the most recently submitted plans, the use would be appropriate given its nature and intensity.
- b. The use will not generate smoke, odors, or inordinate noise. The use will be buffered by existing landscaping and fencing and separated from adjacent residential properties by distance. The impact of adverse effects at the subject site will not be greater than it would generally elsewhere in the zone or applicable other zones.
- c. The location and nature of the structures and the nature and extent of the landscaping and fencing on the site are such that the use will not hinder or discourage the development and use of adjacent land and structures more at the subject site than it would generally in the zone.
- d. According to the submitted plan, there will be 12 parking spaces provided, including 2 handicap parking spaces. The Petitioner also proposes a shuttle service to get people to and from the property on the one day a year that the antique farm and firefighting equipment is on display. The Zoning Regulations require 3.3 parking spaces for every 1,000 square feet of floor area for museums, making the total parking requirement for this proposal 45 spaces. While the Petitioner did not propose any overflow parking areas, it appears that the large, flat, grassy area on the western side of the Property (directly in front of the existing single family dwelling) should be

able to provide the space necessary for the required 33 additional parking spaces. The Petitioner should provide justification at the hearing that parking will be adequate for the proposed museum use.

- e. Based on a site visit to the Property, it appears that the existing ingress and egress drives will provide safe access with adequate sight distance, based on actual conditions.
- f. This criterion relates to the proposed use having an adverse impact on environmentally sensitive areas in the vicinity. However, there are no environmentally sensitive features in the vicinity of this site. Therefore, this criterion is not applicable.
- g. This criterion relates to the proposed use having a greater potential for diminishing the character and significance of historic sites in the vicinity. However, there are no historic sites in the vicinity of this site. The closest historic site is approximately 3,000 feet to the south of the Property, and is Howard County historic site number 435 (Hickory Ridge; Gerald, Hopkins House; M. Burke Sullivan House). Therefore, this criterion is not applicable.

V. RECOMMENDATION

For the reasons stated above, the Department of Planning and Zoning recommends that the request for a Conditional Use for use of the existing 9,388 square foot and 4,115 square foot single story block and frame buildings as a museum be APPROVED.

For the reasons stated above, the Department of Planning and Zoning also recommends that the request for a variance to reduce the required setback from the side property line from 30 feet to 17.5 feet from the southwestern property line and 28.5 feet from the western property line for the existing 4,115 square foot single story block and frame building, and the request for a variance to reduce the required setback from the side property line from 30 feet to 23.5 feet for the existing 1,650 square foot pole barn be APPROVED.

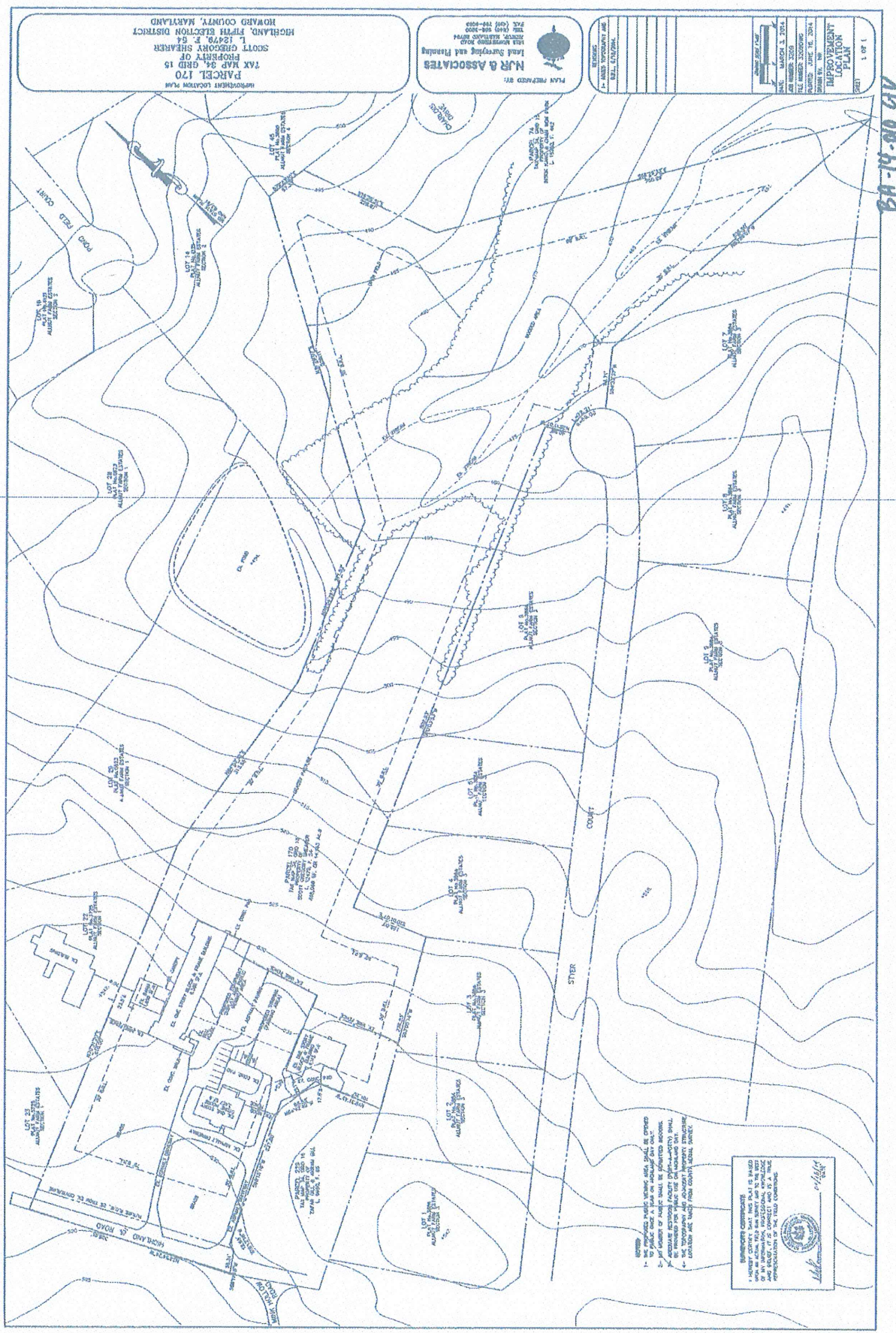
For the reasons stated above, the Department of Planning and Zoning also recommends that the request for a variance for the pole barn to reduce the required minimum 200 foot setback from any existing dwelling on a different lot to 70 feet be APPROVED.

The preceding approvals shall be subject to the following conditions:

- 1. The Conditional Use shall be conducted in conformance with and shall apply only to the 9,388 square foot and 4,115 square foot single story block and frame buildings as described in the petition and as depicted on the plan submitted on June 25, 2014, or as revised by the Hearing Examiner, and not to any other activities, uses, or structures on the Property.
- 2. The Variance shall be conducted in conformance with and shall apply only to the 4,115 square foot single story block and frame building and 1,650 square foot pole barn as described in the petition and as depicted on the plan submitted on June 25, 2014, or as revised by the Hearing Examiner, and not to any other activities, uses, or structures on the Property.


Marsha McLaughlin, Director

9/5/14
Date



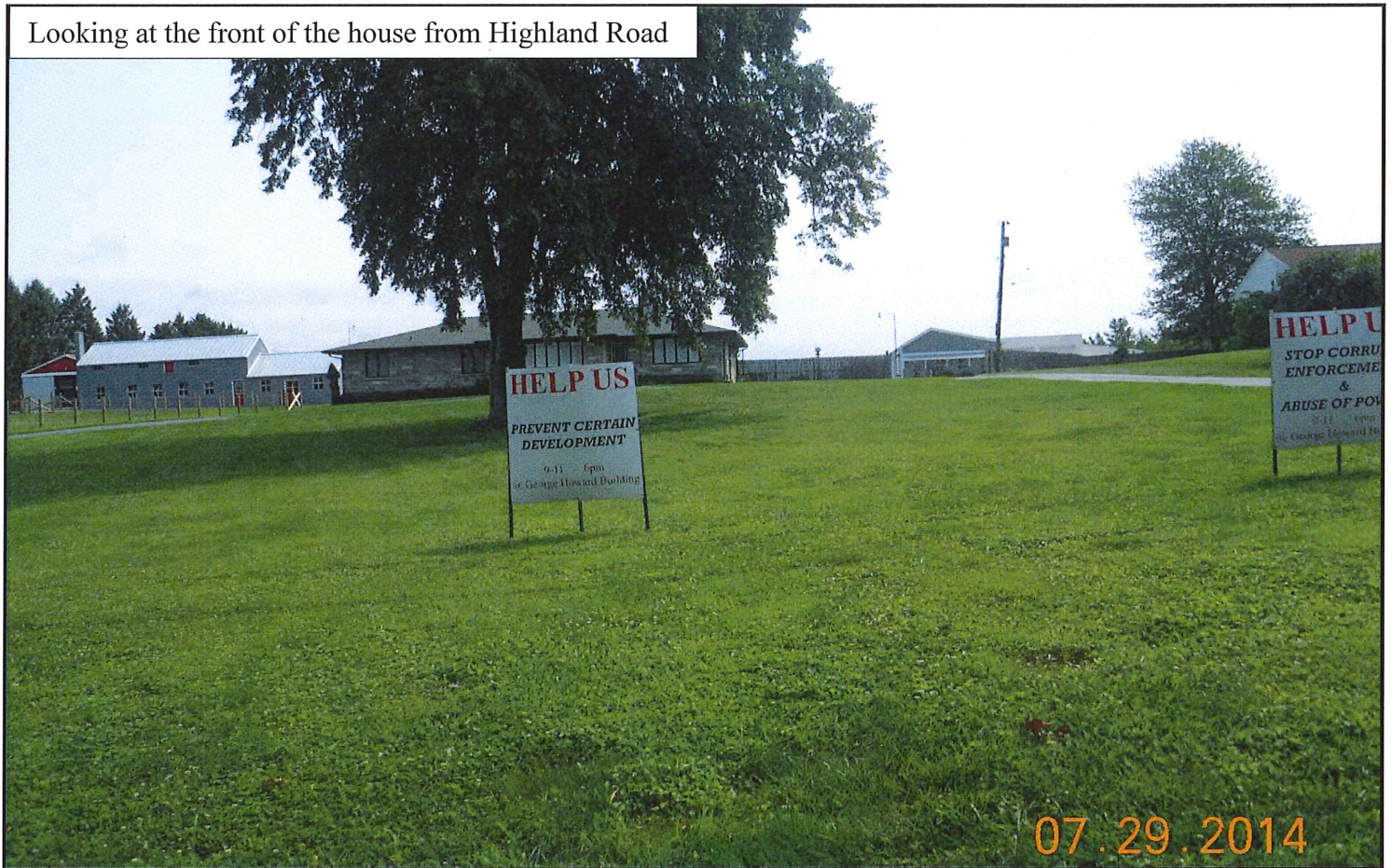
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Petitioner's Plan

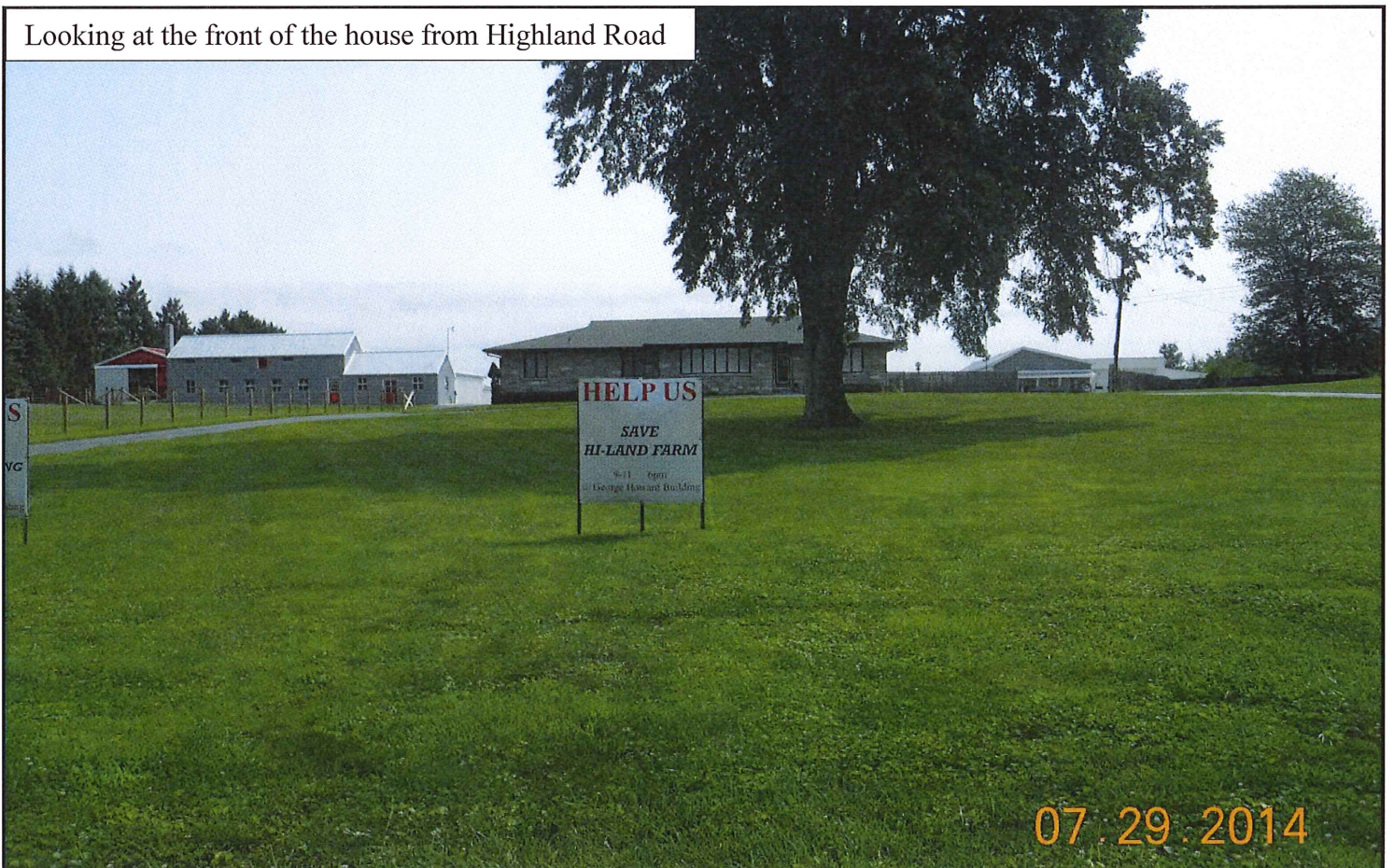


Source: Google Earth Overlaid with Petitioner's Plan (Not to scale)

Looking at the front of the house from Highland Road



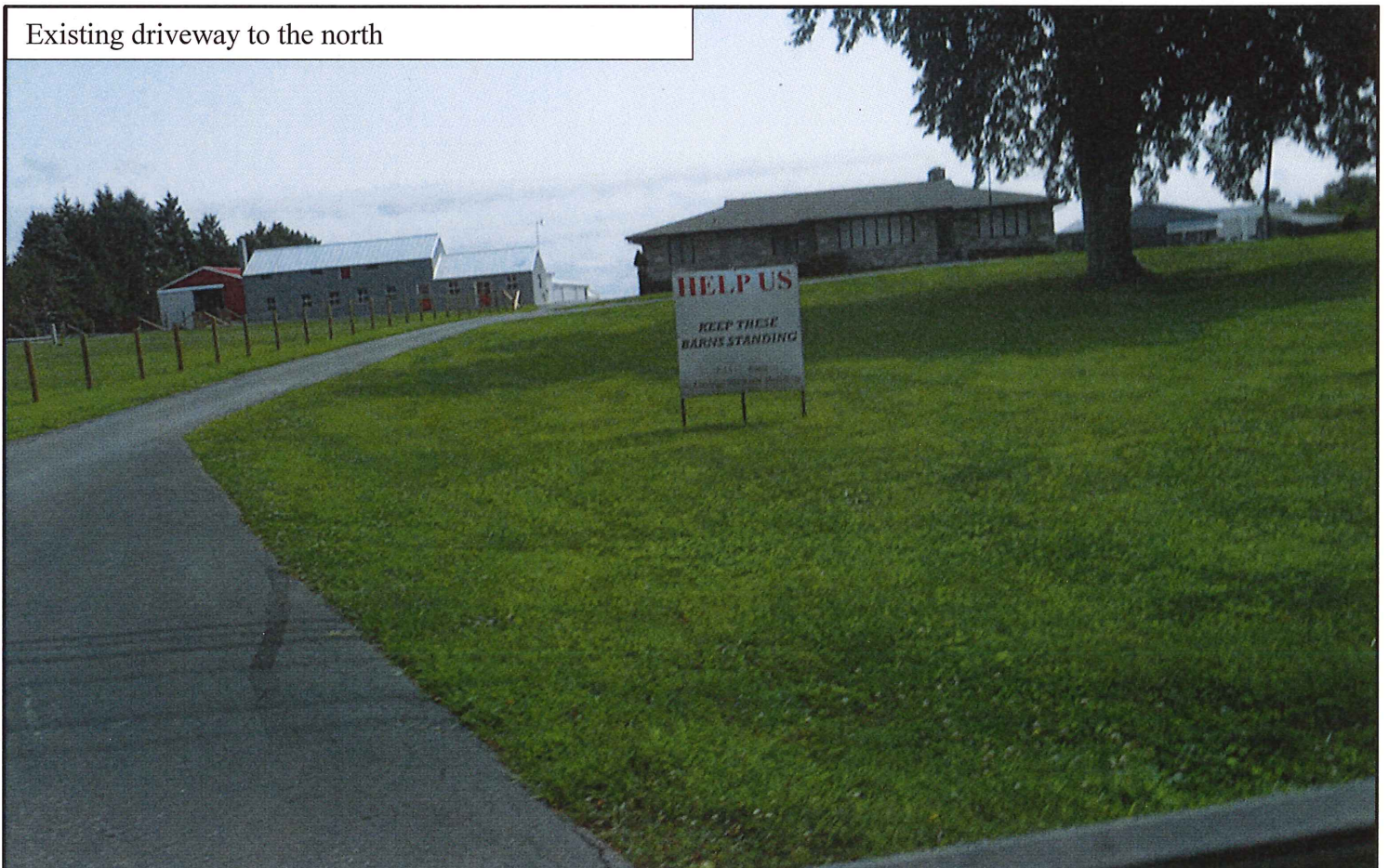
Looking at the front of the house from Highland Road



Existing driveway to the south



Existing driveway to the north



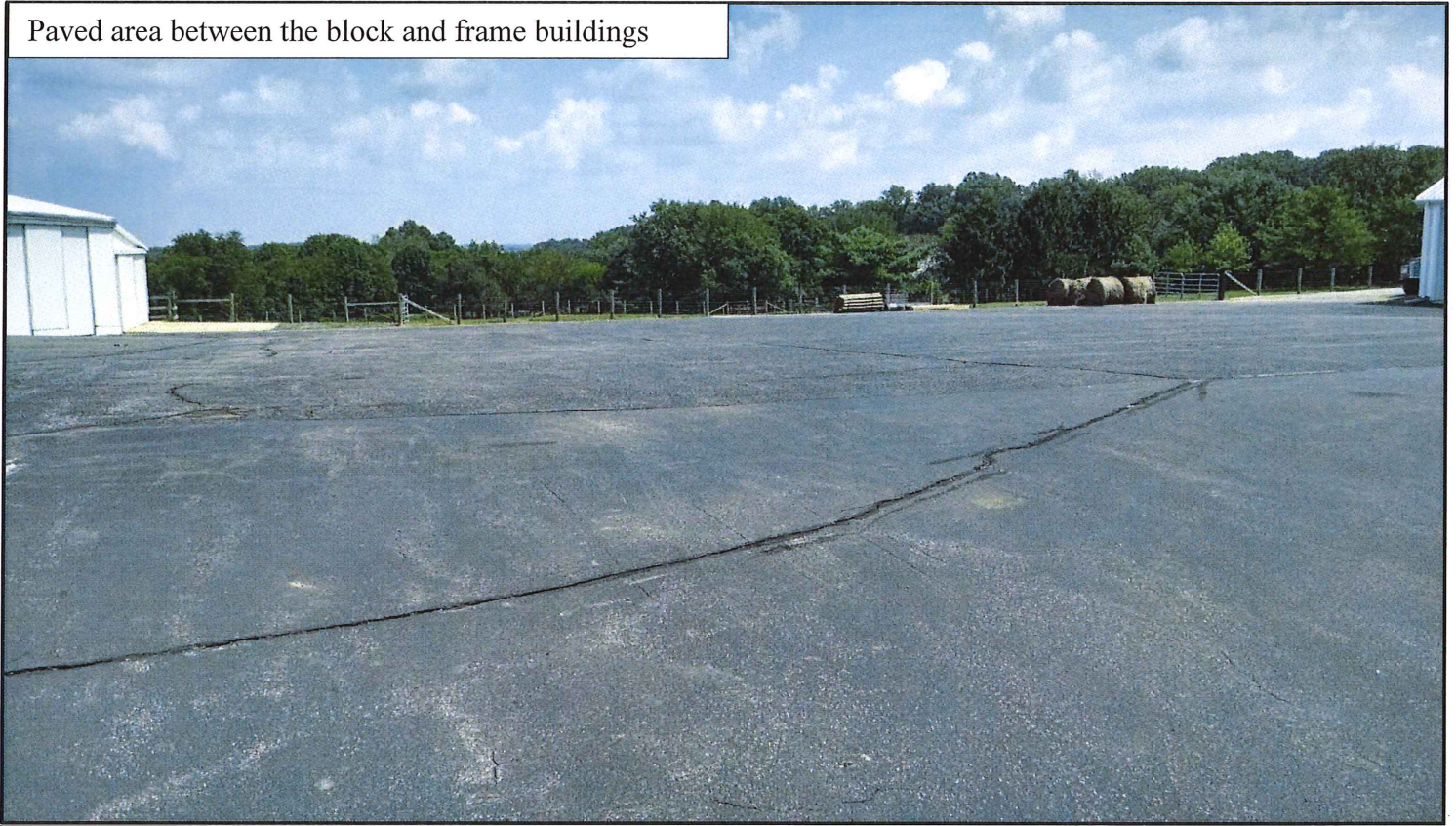
9,388 square foot block and frame building



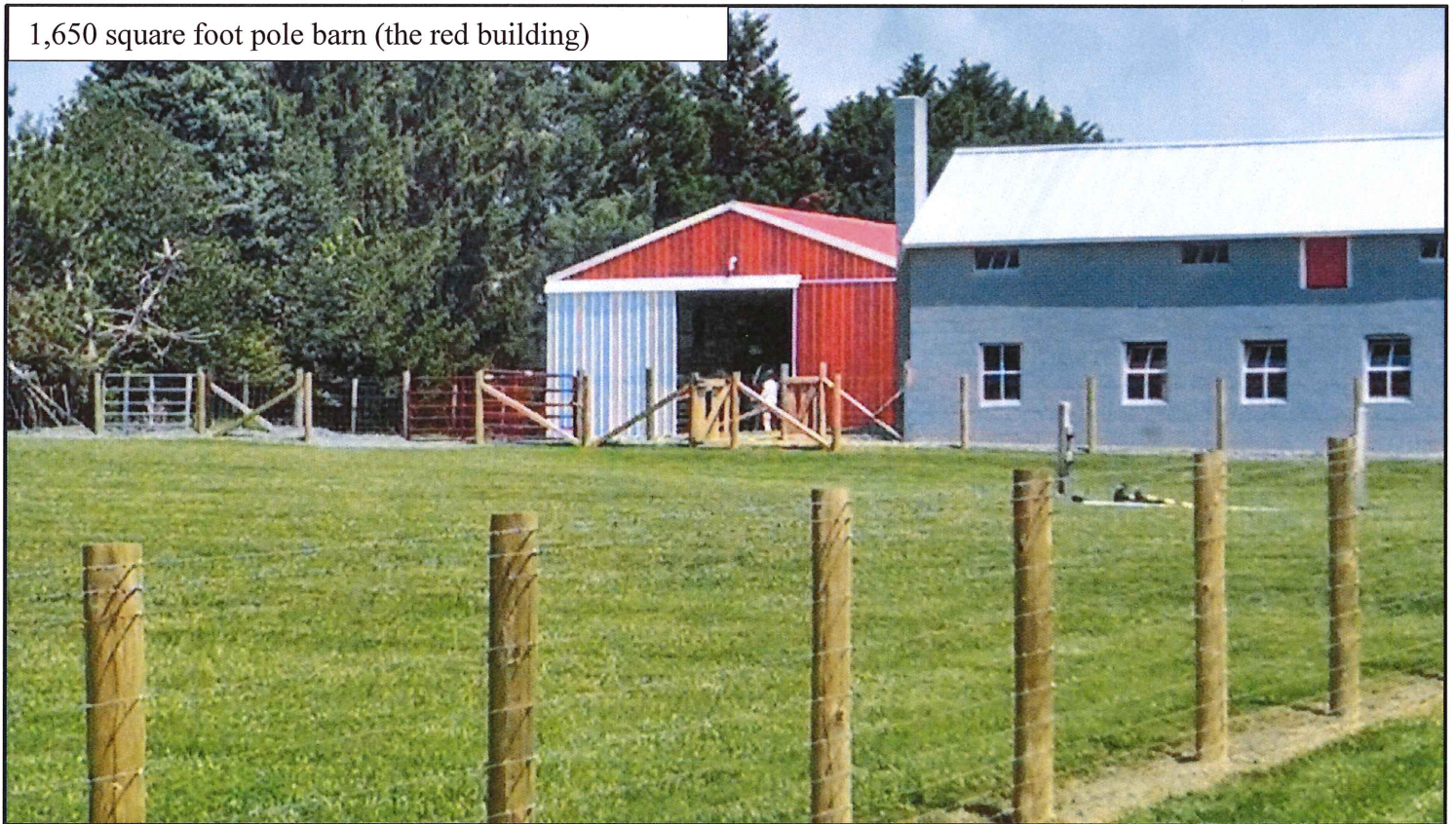
4,115 square foot block and frame building



Paved area between the block and frame buildings



1,650 square foot pole barn (the red building)



Looking south down Highland Road



Looking north up Highland Road

